

ANALYSIS

This ordinance repeals Chapter 8.50 of the Los Angeles County Code in its entirety and adds chapter 8.50 as provided by subdivision (a)(4) of section 11571.1 of the California Health and Safety Code. The ordinance declares the use of property for unlawful controlled substance purposes a nuisance, prohibits an owner and his or her tenants from creating or permitting such a nuisance, and provides for the County Counsel to seek an injunction to abate such a nuisance. Additionally, the ordinance requires an owner to initiate an action to remove a tenant who is using property for controlled substance purposes. If the owner fails to bring and maintain an unlawful detainer action as required, the County Counsel may institute an action against the offending tenant and name the owner as an additional defendant. Alternatively, if the owner identifies personal safety-related reasons for failing to bring the action, the owner may assign the unlawful detainer action to the County. The ordinance provides that County's costs of suit and attorney's fees may be awarded against the owner and that any costs and attorney's fees awarded may be recorded as a lien on the subject property.

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TEB:gm

ORDINANCE NO. _____

An ordinance amending Title 8 - Consumer Protection and Business Regulations of the Los Angeles County Code relating to abatement of illegal drug activity in rental housing.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 8.50 is hereby repealed in its entirety.

SECTION 2. Chapter 8.50 of the Los Angeles County Code is hereby added to read as follows:

Chapter 8.50

DRUG RELATED ACTIVITY

8.50.010 Property used for unlawful controlled substance purposes is a nuisance.

Every building, place, land, or dwelling unit within the county of Los Angeles, maintained or used for the purpose of unlawfully selling, serving, storing, keeping, transporting, manufacturing, cultivating, or giving away any controlled substance, precursor, or analog, as defined under the California Uniform Controlled Substance Act, Division 10 of the Health and Safety Code, is a nuisance.

8.50.020 Definitions.

A. Notice: Any notice or documentation described in this chapter shall be sufficient if it is in writing and given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the last

address of the recipient known to the county. Service by mail shall be deemed to be complete at the time of deposit in the United States mail. Proof of service of the notice may be made by a declaration signed under penalty of perjury by any employee of the County of Los Angeles, which shows service in conformity with this section.

B. Tenant: As used in this chapter, tenant means all persons who hire a building, place, land, or dwelling unit, including tenants, lessees, boarders, lodgers, and others, however denominated.

C. Dwelling Unit: As used in this chapter, a dwelling unit means a structure or the part of a structure that is used as a home, residence, or sleeping place by any person who maintains a household or by two or more persons who maintain a common household.

8.50.030 Use of property for unlawful controlled substance purposes prohibited.

A. Every person who maintains, permits, or allows a nuisance, as defined by Section 8.50.010, to exist upon his or her property or premises, and every person occupying or leasing such property or premises of another who maintains, permits, or allows such a nuisance to exist thereon, 15 calendar days after service of written notice upon such person by the district attorney, sheriff, board of supervisors, or such other county office designated by the board of supervisors, ordering such person to remove, discontinue, or abate the same, is guilty of a misdemeanor, punishable by a fine not to exceed \$1,000, or by imprisonment in the county jail not to exceed a period of six months, or both such fine and imprisonment.

B. Each and every day that such person maintains, permits, or allows such nuisance to exist beyond the fifteenth day after the service of such notice is a separate and distinct offense.

8.50.040 Abatement of property used for unlawful controlled substance purposes -- Injunction.

Whenever the county determines that a nuisance, as defined by Section 8.50.010, is maintained, permitted, or allowed to exist, the county counsel may commence an action in the Los Angeles County Superior Court to temporarily and perpetually enjoin the owner of such property, and the person or persons maintaining, permitting, or allowing such nuisance to exist, from directly or indirectly maintaining or permitting such nuisance.

8.50.050 Abatement of property used for unlawful controlled substance purposes -- Action for unlawful detainer.

A. The county counsel may file an action for unlawful detainer against any tenant or person who is in violation of Section 8.050.010. In filing this action, the county counsel shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that the following also shall apply:

1. Prior to filing an action pursuant to this section, the county counsel shall give at least 15 calendar days' written notice to the owner, requiring the owner to file an unlawful detainer action to remove a tenant who is in violation of

Section 8.50.010. This notice shall include sufficient documentation to establish such a violation and shall be served upon the owner and the tenant in accordance with Section 8.50.020 of this chapter. Within 15 calendar days of the mailing of the written notice, the owner shall provide the county counsel with either: (1) all relevant information pertaining to the unlawful detainer case; or (2) a written explanation setting forth any personal safety-related reasons for noncompliance, and an assignment to the county counsel of the right to bring an unlawful detainer action against the tenant. The assignment shall be on a form provided by the county counsel and shall contain a provision for payment to the County of Los Angeles for its costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed \$600. If the county counsel accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

2. Upon the failure of the owner to file an action pursuant to this section, or to respond to the county counsel as provided in subsection A.1, or having filed an action, if the owner fails to prosecute it diligently and in good faith, the county counsel may file and prosecute the action and join the owner as a defendant in the action.

3. If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to subsection A.2, the County of Los Angeles may be

awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to subsection A.1, and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

B. In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household, if the court finds that the person has engaged in the activities described in Section 8.050.010. Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subsection to return to or reenter any portion of the entire premises.

C. Notwithstanding subdivision (b) of section 68097.2 of the Government Code, the costs incurred in furnishing the testimony of an employee of the County of Los Angeles in an action brought pursuant to this chapter are waived.

[850TBCOC]